IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRIMINAL MISC.NO.9502 M OF 2005

DATE OF DECISION: JANUARY 11, 2007

Harbinder Singh and others

.....Petitioners

VERSUS

State of Punjab and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE RANJIT SINGH

1. **Whether Reporters of local papers may be allowed to see the judgement?**
2. **To be referred to the Reporters or not?**
3. **Whether the judgment should be reported in the Digest?**

PRESENT: Mr. S. S. Majithia, Advocate,
for the petitioners.

Mr. M. C. Berry, Sr.DAG, Punjab.

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RANJIT SINGH, J.

Prayer made in the present petition is for quashing the FIR No.102 dated 9.8.1999 under Sections 406, 498A and 120-B IPC, registered at Police Station Chheharta, Amritsar, on the basis of a compromise. The petitioners, who are husband, father-in-law, mother-in-law, sister-in-law and husband of sister-in-law of respondent No.2 have filed this petition duly impleading the wife as respondent. Prayer is that the matter having been amicably resolved, should now see an end to criminal prosecution as well. It is also alleged that the story presented in the FIR is a concoction and that divorce is already granted between the couple by way of mutual consent under Section 13-B of the Hindu Marriage Act.

The compromise relied in support of the prayer is the one, which

was reached between the parties at the time of grant of divorce by mutual consent. At the time of grant of this divorce, petitioner No.1 and respondent No.2 had made statements before the Additional District Judge, Gurdaspur, copies of which are annexed as Annexures P-2 and P-3. Copy of divorce granted is also placed on record as Annexure P-4. Claiming that the complainant having, thus, resolved the matrimonial dispute cannot still be allowed to pursue the criminal proceedings through this FIR. It is, thus, prayed that this is aimed at just harassing and humiliating the petitioners.

Notice of motion was issued in this case. Respondent Nos.2 and 3 were duly served but they did not come present nor any reply was filed on their behalf. The case was accordingly fixed for arguments.

Counsel for the petitioners, by referring to the statement of wife recorded by the Additional District Judge, has submitted that the present FIR be quashed on the basis of the compromise. A perusal of statement of respondent No.2, Annexure P-3, would show that wife had maintained therein that her father, Ramnik Singh (respondent No.3) would withdraw the complaint, which was pending against petitioner No.1, her husband and his family members in the Court of Judicial Magistrate Ist Class, Jalandhar. She also conceded to have received permanent alimony, which was to satisfy the maintenance, present and future. Claiming this to be a compromise, a prayer has been made for quashing the FIR.

This statement is dated 25.2.2003 whereas the present petition is filed on 10.2.2005 i.e. after a lapse of almost two years. In the statement made by respondent-wife, an undertaking was given

by her that her father would withdraw the complaint. No material is placed on record, showing if this complaint has been withdrawn or not. The complainant in this case is father of the respondent-wife. Though impleaded as respondent No.3, yet there is no statement made by the complainant either before the Additional District Judge, Gurdaspur or in present proceedings to indicate that the criminal case registered at his instance was also compromised between the parties. Since the petitioners have sought quashing of this FIR only on the basis of a compromise, which is not forth-coming on record, it may not be appropriate to quash the proceedings on that basis, unless the aspect of compromise is substantiated to the satisfaction of the Court.

When confronted with this position, counsel for the petitioner relied upon a decision of the Hon'ble Supreme Court in the case of ***Ruchi Agarwal Vs. Amit Kumar Aggarwal***, 2004 (4) RCR (Criminal) 949. This was a case where compromise petition was filed before the Matrimonial Court wherein an undertaking was given to withdraw all proceedings, civil and criminal, initiated against the family of the husband, by making a pointed reference to the complaint under Sections 498A, 323 and 506 IPC coupled with Dowry Prohibition Act. The husband in this case had also agreed to withdraw the petition filed under Section 9 of the Hindu Marriage Act, which was pending. In Ruchi Agarwal's case (supra), the family of the wife had not remained unrepresented before the Court and rather it had taken stand that the compromise was obtained by advancing threat and coercion. The Hon'ble Supreme Court did not accept this argument on the ground that husband had given a consent for a

divorce and, thus, the compromise had been partly acted upon. In the present case, only a statement of the respondent-wife is being relied upon. Respondent-wife and her father have chosen not to appear. It is not possible to ascertained if there is any development after the grant of divorce in this case. The petitioners have also not explained as to why they are filing this petition after expiry of a period of two years from the date of alleged settlement. In these circumstances, it cannot be said with certainty if the criminal proceedings were also compromised in this case. In the absence of stand of the respondents, it would not be fair to quash these proceedings on the basis of a compromise, which is nothing but a statement of respondent-wife recorded before the Matrimonial Court and not a compromise. Statement relied upon is not of the complainant, who is father of the wife.

In view of the above, I am not inclined to quash the proceedings on the basis of compromise and would dismiss this petition. Ordered accordingly.

January 11, 2007 **(RANJIT SINGH)**
khurmi **JUDGE**